

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CYCLE-CRAFT CO., INC.
d/b/a BOSTON HARLEY-
DAVIDSON/BUELL,

Plaintiff,

v.

HARLEY-DAVIDSON MOTOR
COMPANY, INC. and BUELL
DISTRIBUTION COMPANY, LLC,

Defendants.

CIVIL ACTION No. 04-11402

**JOINT MOTION TO CONTINUE TRIAL DATE AND STIPULATION
CONCERNING DEPOSITION AND TRIAL PROCEDURE**

The trial in the above-referenced matter is scheduled to commence on February 20, 2006. The parties hereby jointly move to continue the trial to a mutually convenient date in May 2006. As grounds for this motion, the parties state that plaintiff's counsel, James C. Rehnquist, has a criminal case scheduled for trial before Judge Barbadoro in New Hampshire on March 7, 2006, *United States v. Shanahan, et al.*, 04-CR-126-PB. Mr. Rehnquist is unable to reschedule that trial, which has five defendants and is expected to last at least six weeks. Further, plaintiff has recently disclosed the identity of an additional fact witness, Claud Jinks, that it may call as a trial witness and who was not disclosed prior to the close of discovery.

WHEREBY, the parties agree and the Court hereby ORDERS as follows:

1. Defendants may take the deposition of Mr. Jinks at a mutually convenient time and defendants may serve a subpoena on Mr. Jinks requesting that he produce relevant documents.

2. We understand from Mr. Nicewicz that the Court could commence trial of this matter on either May 15 or May 22 (the trial is expected to last approximately two weeks). Because of the unavailability of some defense witnesses the week of May 15, the parties request that they be scheduled to commence trial on May 22 (with the understanding, with the Court's permission, that no proceedings will take place on June 2, 2006, because counsel for plaintiff will be attending a memorial service for his father at the Supreme Court in Washington, D.C.).

3. Notwithstanding the Court's prior ruling, the parties agree that all factual issues in the case, including without limitation whether defendants had good cause under Chapter 93B to terminate plaintiff's franchise and whether the termination was arbitrary and/or in bad faith, shall be tried to a jury as the sole finder of fact.

Respectfully submitted by,

**Cycle-Craft Co., Inc. d/b/a
Boston Harley-Davidson/Buell**

By their attorneys,

/s/ James C. Rehnquist

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**Harley-Davidson Motor Company, Inc.,
and Buell Distribution Company, LLC**

By their attorneys,

/s/ William N. Berkowitz

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SO ORDERED:

Judge Nathaniel M. Gorton

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on January 23, 2006.

/s/ James C. Rehnquist

James C. Rehnquist